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Congress of the United States
House of Representatives
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October 29, 1999

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Dear Colleague:

As you may have noticed, anti-environmental appropriations riders are becoming a congressional cottage industry. From ESA salmon exemptions in the Commerce bill to legislative blessing for toxic dumping in the Interior package, I thought I'd seen it all.

Then I came across two lines slipped into the DOD appropriations measure during conference deliberations, without benefit of either House or Senate review. Once you see the provision, you'll see why its authors avoided hearings. It is a breathtaking attack on federal environmental enforcement, with serious consequences for a Superfund cleanup in my congressional district -- and perhaps yours as well.

I am writing today to invite your cosponsorship of a bill to repeal this provision.

Section 8149 of HR 2561 would prohibit the Pentagon from paying fines arising from violations of environmental safeguards at military installations -- and from funding "supplemental environmental projects" in lieu of penalties.

At stake is the capacity of the EPA and Justice Department to enforce pollution standards with the tools essential to back up their sanctions. As a former District Attorney, I know that if violators can ignore penalties, statutory standards become meaningless. And as if its impact on the federal level is not serious enough, this provision will also hamstring *state* enforcement.

This is a question we have already addressed with bipartisan clarity. In 1992, by near-unanimous votes, the House and Senate approved the Federal Facilities Compliance Act. Signed into law by President Bush, it made clear our aversion to a double standard for the Pentagon. The Congress reasserted this principle -- that environmental standards apply to public *as well as* private facilities -- in 1996 amendments to the Safe Drinking Water Act.

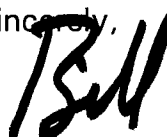
The DOD rider re-opens, and widens, the polluter loophole *explicitly closed at least twice*.

This provision is of particular urgency to me because of its potential impact at the Massachusetts Military Reservation, an installation spanning four communities on Cape Cod. Because of past federal activities at the base, plumes of toxic pollution now constitute a direct threat to the area's public and economic health -- exacerbating already-serious water supply constraints. In the few minutes it takes to review this Dear Colleague, thousands of gallons of water in the sole-source aquifer beneath the base will be contaminated further.

To its credit, the Defense Department has made enormous progress over the last two years toward addressing the complex and expensive task of containing this pollution. One catalyst for this momentum has been ongoing and aggressive EPA oversight. This consensus derives from public confidence in the commitment and capacity of federal enforcement mechanisms. The blanket exemption contained in the Defense Appropriations rider will irresponsibly degrade that confidence -- and disrupt the pace of remediation work.

In my view, its prohibition cuts the teeth -- and heart -- out of state and federal environmental enforcement. I realize the odds of repealing this provision are steep, and would welcome your help. For details or to cosponsor our bill, please call Corinne Young of my staff at 5-3111.

Sincerely,



William D. Delahunt